



April 27, 1999

Ms. Julie B. Ross
Haynes & Boone, L.L.P.
201 Main Street, Suite 2200
Fort Worth, Texas 76102-3126

OR99-1136

Dear Ms. Ross:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124156.

The City of Weatherford (the "city"), which you represent, received an open records request for "the findings of the Whitney Smith Company, Inc.," which investigated a discrimination claim filed against the city. You contend that the requested information is excepted from required public disclosure pursuant to, *inter alia*, section 552.103 of the Government Code.¹


To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.—Austin 1997, no pet.); Open Records Decision No. 588 at 1 (1991). You explain that a city employee has filed a civil rights complaint with the Texas Commission on Human Rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5, alleging national origin discrimination by the city. You have provided this office with a copy of that complaint. The filing of such a complaint constitutes evidence that the likelihood of litigation against the city is more than mere conjecture. *See* Open Records Decision No. 386 (1983). Furthermore, in this instance you have made the requisite showing that the requested information relates to the reasonably anticipated litigation. The city therefore may withhold the requested records at this time pursuant to section 552.103(a).²

¹Because we resolve your request under section 552.103, we need not address the applicability of the other exceptions you raise.

²In reaching this conclusion, however, we assume that the employee that filed the EEOC complaint has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the anticipated litigation, *e.g.*, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/RWP/eaf

Ref.: ID# 124156

encl. Submitted documents

cc: Mr. Johnny R. Lane
4751 Cedar Hill Road
Weatherford, Texas 76087
(w/o enclosures)